

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

INTELLECT WIRELESS, INC.,)	
)	
Plaintiff,)	Civil Action No. 08 C1215
)	
v.)	Honorable Joan B. Gottschall
)	Magistrate Judge Susan E. Cox
)	
T-MOBILE USA, INC., UNITED)	
STATES CELLULAR CORP.,)	
)	
)	
Defendants.)	

AMENDED COMPLAINT

Plaintiff, Intellect Wireless, Inc. ("Intellect Wireless") complains of defendants T-Mobile USA, Inc. ("T-Mobile") and United States Cellular Corp. ("US Cellular") (collectively "Defendants") as follows:

NATURE OF THE SUIT

1. This is a claim for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code.

PARTIES

2. Intellect Wireless is a Texas corporation with offices in Fort Worth, Texas and Reston, Virginia. Intellect Wireless is in the business of, among other things, commercializing its inventions relating to wireless image messaging.

3. Daniel Henderson is the founder of Intellect Wireless, and the sole inventor of the patents-in-suit. Mr. Henderson has been awarded 25 United States patents with several more pending that relate to picture / video messaging in wireless devices such as PDA's, portable computers and cellular phones. Mr.

Henderson's prototype for a wireless picturephone device was received as part of the permanent collection of the Smithsonian Institution in the National Museum of American History. The Honorable Senator Gordon H. Smith, (OR), declared that Mr. Henderson has "truly blazed new trails in the fields of wireless technology and digital convergence" and called him a "true visionary."

4. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,257,210 entitled "Picture Phone with Caller ID" which issued on August 14, 2007 ("the '210 Patent").

5. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,305,076 entitled "Method and Apparatus for Improved Paging Receiver and System" which issued on December 4, 2007 ("the '076 Patent").

6. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,266,186 entitled "Method and Apparatus for Improved Paging Receiver and System" which issued on September 4, 2007 ("the '186 Patent").

7. Intellect Wireless owns all right, title, interest in and has standing to sue for the infringement of United States Patent No. 7,349,532 B2 entitled "Picture and Video Message Center System" which issued on March 25, 2008 ("the '532 Patent").

8. T-Mobile is a Delaware corporation with corporate headquarters at 12920 SE 38th Street, Bellevue, Washington 98006.

9. T-Mobile makes, uses, sells, offers for sale and/or imports cellular telephone services that receive messages including non-facsimile pictures and caller ID information.

10. US Cellular is a Delaware corporation with corporate headquarters at 8410 West Bryn Mawr Avenue, Suite 700, Chicago, Illinois 60631.

11. US Cellular makes, uses, sells, offers for sale and/or imports wireless communications services that receive messages including non-facsimile pictures and caller ID information.

JURISDICTION AND VENUE

12. This Court has exclusive jurisdiction over the subject matter of this case under 28 U.S.C. § 1338(a).

13. Venue is proper in this judicial district under 28 U.S.C. §§ 1391 and 1400(b). T-Mobile and US Cellular transact business in this district, at least by offering to sell or selling infringing cellular telephones and services to Illinois customers in this judicial district and through Internet websites that are designed to reach Illinois customers and are, in fact, used by customers in this judicial district. T-Mobile and US Cellular do business and have committed acts of infringement in this judicial district. T-Mobile owns retail stores in this judicial district including, but not limited to, a retail location at 5 Woodfield Mall, D-308, Schaumburg, IL 60173. US Cellular has its headquarters in this judicial district and transacts substantial business here.

PATENT INFRINGEMENT

14. T-Mobile has directly and/or indirectly infringed at least one claim of the '210 patent, the '076 patent, the '186 patent, and the '532 patent by making, using, selling and/or offering to sell wireless communication plans, packages and/or services that include, or optionally include, Caller ID, picture and video messaging and/or Multimedia Messaging Service.

15. T-Mobile has contributorily infringed or induced infringement of at least one claim of the '210 patent, the '076 patent, the '186 patent, and the '532 patent in violation of 35 U.S.C. § 271 through, among other activities, by providing plans, packages and/or services that include, or optionally include caller ID and video messaging and/or Multimedia Messaging Service and demonstrating and instructing subscribers to its plans, packages and/or services how to utilize its picture and video messages service and/or Multimedia Messaging Service through its websites at www.t-mobile.com and support.t-mobile.com.

16. T-Mobile's infringement, contributory infringement and/or inducement to infringe has injured Intellect Wireless and it is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

17. US Cellular has directly and/or indirectly infringed one or more claims of the '210 patent, the '076 patent, the '186 patent, and the '532 patent by making, using, selling and offering to sell wireless communication plans, packages and/or services that include, or optionally include, Caller ID, picture

and/or Multimedia Messaging Service.

18. US Cellular has contributorily infringed or induced infringement of at least one claim of the '210 patent, the '076 patent, the '186 patent, and the '532 patent in violation of 35 U.S.C. § 271 through, among other activities, by providing plans, packages and/or services that include, or optionally include caller ID and/or Multimedia Messaging Service and demonstrating and instructing subscribers to its plans, packages and/or services how to utilize its picture and/or Multimedia Messaging Service through its websites at <http://easyedge.uscc.com>.

19. US Cellular's infringement, contributory infringement and/or inducement to infringe has injured Intellect Wireless and it is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

PRAYER FOR RELIEF

WHEREFORE, plaintiff, Intellect Wireless, Inc., respectfully requests this Court enter judgment against T-Mobile USA, Inc. and United States Cellular Corp. and against their subsidiaries, successors, parents, affiliates, officers, directors, agents, servants, employees, and all persons in active concert or participation with them, granting the following relief:

- A. The entry of judgment in favor of Intellect Wireless;
- B. An award of damages adequate to compensate Intellect Wireless for the infringement that has occurred (together with prejudgment interest from the date the infringement began), but in no event less than a reasonable royalty as permitted by 35 U.S.C. § 284;

C. A finding that this case is exceptional and an award to Intellect Wireless of its attorneys' fees and costs as provided by 35 U.S.C. § 285;

D. A permanent injunction prohibiting further infringement, inducement of infringement and/or contributory infringement of the patents-in-suit; and,

E. Such other relief that Intellect Wireless is entitled to under law and any other relief that this Court or a jury may deem just and proper.

JURY DEMAND

Intellect Wireless demands a trial by jury on all issues presented in this complaint.

INTELLECT WIRELESS INC.

/s/ Paul C. Gibbons

Paul K. Vickrey

Paul C. Gibbons

David J. Mahalek

Niro, Haller & Niro

181 West Madison, Suite 4600

Chicago, Illinois 60602-4515

(312) 236-0733

Fax: (312) 236-3137

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the foregoing **AMENDED COMPLAINT** was electronically filed with the Clerk of Court using CM/ECF system, which will send notification of such filing to the following e-mail addresses on February 23, 2010 by:

Thomas L. Duston (tduston@marshallip.com)
Scott A. Sanderson
(ssanderson@marshallip.com)
Marshall, Gerstein & Borun
233 South Wacker Drive
6300 Sears Tower
Chicago, IL 60606
(312) 474-6300
Fax: (312) 474-0448

Josh A. Krevitt (jkrevitt@gibsondunn.com)
Charles J. Boudreau
(cboudreau@gibsondunn.com)
Benjamin Hershkowitz
(bhershowitz@gibsondunn.com)
Gibson, Dunn & Crutcher LLP
200 Park Avenue
New York, NY 10166
(212) 351-4000
Fax: (212) 351-4035
Attorneys for T-Mobile USA, Inc.

Richard J. O'Brien (robrien@sidley.com)
Nabeel Khan (nkhan@sidley.com)
Rachel Sher (rshe@sidley.com)
Brian Bianco (bbianco@sidley.com)
Sidley Austin LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000
Fax: (312) 853-7036

Attorneys for United States Cellular Corporation

/s/ Paul C. Gibbons